

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

BILLY JAMES FLEMING,

Plaintiff,

v.

CIVIL ACTION NO. 5:14-cv-16419

INMATE MARVN GARRETT, et al.

Defendants.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) and the Plaintiff's *Complaint* (Document 2) filed in this matter on May 14, 2014.


By *Standing Order* (Document 4) entered on May 15, 2014, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On May 23, 2014, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 5) wherein it is recommended that this Court deny the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Document 1), dismiss the Plaintiff's *Complaint* (Document 2), and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by June 9, 2014.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Plaintiff's *Application to Proceed Without Prepayment of Fees and Costs* (Document 1) be **DENIED**, the Plaintiff's *Complaint* (Document 2) be **DISMISSED**, and this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort counsel of record, and any unrepresented party.

ENTER: June 10, 2014


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA